

ROBINSON & COLE<sup>LLP</sup>

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September 20, 2007

Attorney Sandra Norman-Eady  
Office of Legislative Research  
Room 5300  
Legislative Office Building  
Hartford, CT 06106-1591

Dear Attorney Norman-Eady:

I have received the letter from Senators Looney and Roraback of September 19, 2007 and the letter from Deputy United States Attorney John Durham of September 17, 2007 and I have discussed them with Senator DeLuca. While Senator DeLuca is considering the Bipartisan Committee of Review's request that he waive his rights under the Privacy Act of 1974 in order for the United States Attorney to release private information, it is important to be mindful that the private information is, by federal statute, not "publicly available information." Both Section 4 of Senate Resolution No. 200 and the Procedures of the Senate Bipartisan Committee of Review adopted on September 6, 2007 define the scope of the Committee's review as a review of "publicly available information." Accordingly, the private information that the Committee requested from the federal government is beyond the scope of the enabling legislation through which the Senate created the Bipartisan Committee of Review and it is outside of the procedures that the Committee adopted.

As further background, the Committee should be aware that the federal government's position that it can release the information that the Committee requested, even with a Privacy Act waiver, is unprecedented. Indeed, on June 7, 2007 and in connection with this same matter, I requested on Senator DeLuca's behalf that the United States Attorney confirm certain information from the FBI's interview with Waterbury Police Chief Neil O'Leary. Knowing that the federal government had a steadfast policy of not releasing investigatory tapes or documents, my request to the United States Attorney was limited. My request on Senator DeLuca's behalf sought less information than the Committee requested in its September 6, 2007 letter and my request did not seek the actual production of any confidential, investigatory materials (a copy of my letter is attached for your reference). I asked the United States Attorney simply to confirm publicly certain information that had been provided to me during the course of the government's thorough investigation of Senator DeLuca.

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Specifically, the federal government had advised me that an FBI Form 302 Report memorialized that Chief O'Leary stated in his FBI interview that Senator DeLuca had reported the physical abuse of his granddaughter to Chief O'Leary and that Senator DeLuca requested assistance from the Waterbury Police before he met with James Galante. The government had provided this information to me because, in addition to the important fact that its investigation did not reveal a corrupt relationship between Senator DeLuca and Mr. Galante, Chief O'Leary's corroboration of Senator DeLuca's concern for his granddaughter and the Chief's corroboration of Senator DeLuca's attempts to obtain law enforcement assistance before talking with Mr. Galante were significant, mitigating factors in Senator DeLuca's matter.

Despite the fact that Chief O'Leary's 302 Report, as the government described it to me, directly contradicted Chief O'Leary's repeated and vitriolic public statements that Senator DeLuca had not reported physical abuse and did not request police assistance, the United States Attorney refused to disclose Chief O'Leary's 302 Report or even provide confirmation of any information from Chief O'Leary's FBI interview. In stark contrast to the letter to the Committee of September 17, the United States Attorney issued a press statement on June 7 in which he reiterated the long-standing position of the Office of United States Attorney. He stated, "As federal cases are currently pending, the U.S. Attorney's Office and Federal Bureau of Investigation cannot comment beyond what has been disclosed in court filings and statements made in open court, and we are prohibited from commenting on matters occurring before the Grand Jury." The June 7 refusal to disclose investigatory materials was not surprising and was, as just one relevant legislative example, consistent with the federal government's refusal to provide any information to the Select Committee of Inquiry that examined former-Governor Rowland's conduct. The United States Attorney's September 17 response to the Committee is inconsistent and cannot be reconciled with the position asserted in the June 7 press statement and in every other federal investigation.

It is also important to be mindful that at the time of the United States Attorney's June 7 press statement, Senator DeLuca's misdemeanor case had been resolved and thus the United States Attorney's reference to "pending" cases did not involve Senator DeLuca's matter. Many of the federal cases that the United States Attorney referenced in the June 7 statement, including the case against Mr. Galante, remain pending and could be impacted by disclosure of investigatory materials. Additionally, the materials that the United States Attorney's Office now claims can be disclosed still reflect matters that were or are the subject of a Grand Jury investigation and thus they still should not be disclosed because of the Grand Jury confidentiality requirements of Rule 6(e) of the Federal Rules of Civil Procedure, as the United States Attorney stated on June 7.



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Attorney Sandra Norman-Eady

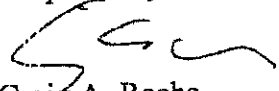
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I am not aware of, and the federal government has not advised me of, any other instance in which the United States Attorney or the FBI has agreed to release undercover, investigatory materials, with or without a Privacy Act waiver. If the federal government decides not to prosecute a person after conducting a thorough investigation, the government should not then agree to release undercover materials, with or without a privacy waiver, especially when those materials reflect an attempt by a federal agent to get an individual to commit a crime (i.e., a bribe attempt) and when that attempt was rejected and no crime occurred. By their very nature, such uncover materials are sensitive and the release of those materials would inevitably lead to unwarranted innuendo and speculation, which is why federal law protects the materials from public disclosure. The federal government's decision that it can release undercover, investigatory materials with a Privacy Act waiver, when it rightfully decided not to pursue a federal criminal charge against Senator DeLuca, creates a dangerous precedent for individual liberties and privacy rights.

As you know, Senator DeLuca supports the Committee's work and he will explain to the Committee that he did not have a corrupt relationship with Mr. Galante or anyone else and he will respond to the Committee's questions on that issue and on the Committee's other concerns. Senator DeLuca will also continue to take responsibility for and bear the consequences of his bad decision to seek Mr. Galante's assistance to protect his granddaughter. Senator DeLuca, however, is very concerned that the information request for federal undercover, investigatory materials exceeds the agreed scope of the Committee's review and it now involves action by the United States Attorney that is unprecedented and inconsistent with (1) the long-standing policy of that office not to disclose investigatory materials, (2) the federal government's press statement of June 7 in this matter and (3) fundamental privacy rights. Nevertheless, Senator DeLuca takes the Committee's Privacy Act waiver request very seriously, he is considering his response and he will reply by September 25.

Respectfully,

  
Craig A. Raabe

cc: Senator Louis DeLuca  
United States Attorney Kevin O'Connor  
Deputy United States Attorney John Durham  
AUSA Raymond Miller  
AUSA Michael Gustafson  
SAC Kimberly Mertz



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June 7, 2007

**VIA TELECOPIER**

Kevin J. O'Connor, Esq.  
United States Attorney  
District of Connecticut  
Connecticut Financial Center  
157 Church Street - 23<sup>rd</sup> Floor  
New Haven, CT 06510

**Re: Lou DeLuca**

Dear Attorney O'Connor:

As you know, in press coverage of this matter today, it has been reported that Waterbury Police Chief Neil O'Leary denied that Lou DeLuca and his family notified Chief O'Leary of the physical domestic abuse of one of Mr. DeLuca's relatives and Chief O'Leary has claimed that Mr. DeLuca declined the assistance of the Waterbury Police Department in dealing with the physical domestic abuse of Mr. DeLuca's relative. Based on the information that the federal government provided to me in the course of the government's thorough investigation of this matter, which information is contained in a written report in the Federal Bureau of Investigation's files, the statements that are attributed to Chief O'Leary are false and they must be corrected.

In my negotiations with your office in this matter, I was advised that the Federal Bureau of Investigation had interviewed Chief O'Leary and in that interview Chief O'Leary recalled that Mr. DeLuca and his family sought the assistance of the Waterbury Police Department on multiple occasions. Chief O'Leary also recalled in his FBI interview that Mr. DeLuca and his family specifically advised the chief that their relative was being physically abused in a domestic relationship. Additionally, as referenced in Paragraph 12 of Arrest Warrant Affidavit, I was advised that the FBI confirmed Mr. DeLuca's statement to federal investigators that he and his family sought the assistance of the Waterbury Police Department in dealing with this domestic abuse situation and the FBI confirmed that Chief O'Leary advised Mr. DeLuca that his department could not resolve the problem without a complaint from the victim. It is my understanding and belief that these facts were important

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Kevin J. O'Connor, Esq.

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mitigating factors in your office's decision to resolve this matter in the manner that we negotiated.

In light of the fact that your office possesses information in your files that proves that the statements attributed to Chief O'Leary are false, you should now publicly confirm that Chief O'Leary's reported statements are not accurate and you should confirm publicly that Chief O'Leary told the FBI (1) that Mr. DeLuca advised Chief O'Leary that his relative was being physically abused, (2) that Mr. DeLuca sought the assistance of the Waterbury Police Department to resolve the domestic abuse of Mr. DeLuca's relative and (3) that Chief O'Leary told Mr. DeLuca that the Waterbury Police Department could not resolve the problem without a complaint from the victim.

Your public confirmation of these issues must be made immediately in order to rectify the false light in which Mr. DeLuca has been portrayed as a result of Chief O'Leary's reported inaccurate comments. This matter has been the subject of significant media attention, including your press conference at the outset of the matter, and that media attention is continuing. While the media attention continues to be based on false statements attributed to a law enforcement official, Mr. DeLuca and his family are being unfairly harmed. No doubt, you have a great interest in ensuring that public statements by fellow law enforcement executives, with whom you have worked and will work in the future, are accurate. Because Chief O'Leary's reported statements as set out above are false and are contradicted by an FBI report in your files, and because the interests of justice are undermined by those false statements, under the unique circumstances of this matter, Mr. DeLuca implores you to correct Chief O'Leary's attributed statements and confirm the three issues set forth in the preceding paragraph, which issues were central to the resolution of this matter.

Thank you for your anticipated prompt attention to this issue.

Most sincerely,



Craig A. Raabe

cc: AUSA Raymond Miller  
AUSA Michael Gustafson  
ASA Michael Gailor  
SAC Kimberly Mertz  
Mr. Lou DeLuca



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## Facsimile Transmission Sheet

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RE: Senator Louis DeLuca

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## MESSAGE:



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